S.B. CRIMINAL MISC. BAIL APPLICATION NO.1787/2006
(Tosif & Ors. Vs. State)

Date of order : 10.5.2006

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. Mridual Jain, for the applicants.
Mr. Ashok Upadhyay, Public Prosecutor.

I have heard learned counsel for the applicants as well as learned Public Prosecutor for the State and carefully gone through the impugned order.

It is contended by the learned counsel for the applicants that complainant – Sharda submitted an oral report at Police Station, Kalinjara District Banswara on 30.3.2006 stating therein that when she was returning back from her fields, some persons were taking away one Shakil Musalman in the Jeep and when those persons saw her, they stopped the jeep and she too was dragged into the jeep and then she was beaten by the accused-persons. Thereafter, Juber and Pintu cut her hair by blade and razor and Aziz, Javed and Vinod torn her blouse and saree and thereafter Vinod brought one ass and she was put on ass and a rope was given to Shakil who was in the underwear and accused persons took them towards bus stand. Upon this FIR, a case was registered under Sections 323, 354, 365 I.P.C. and Section 3 of SC/ST Act and accused persons were arrested. As per the contention of the learned counsel for the applicants complainant and one Shakil

were having illicit relations and because of this reason, wife of Shakil committed suicide along with her daughter, therefore, situation became serious and it resulted into the present occurrence in which present FIR has been registered against the applicants.

I have perused the case-diary as well as the statement of complainant – Sharda.

As per the statement of complainant – Sharda recorded under Section 161 Cr.P.C., there is allegation against so many persons but more specifically, the allegation for cutting hair by blade and razor is against Juber S/o Shakil and Pintu S/o Firoz Khan and further there is allegation against Vinod, Aziz and Javed that they torn her blouse and Saree and thereafter, Vinod brought one ass and she was put upon ass in the half naked condition.

In the circumstances, I am not inclined to grant bail to accused-applicant No.4 Vinod. Accordingly, this bail application stands rejected. However, he is free to move fresh bail application after recording of the statement of complainant – Sharda.

Taking into consideration the facts and circumstances of the case and without expressing any opinion, I think it just and proper to enlarge the

accused-applicants No.1 to 3 and 5 on bail.

Accordingly, the bail application filed under Section 439 Cr.P.C. on behalf of accused-applicant Nos. 1 to 3 and 5 is allowed and it is directed that the applicants namely (1) Tosif S/o Basheer Mohd., (2) Mohan Das S/o Nerantan Das Sadhu, (3) Raju @ Ragenj S/o Kalu Adivasi and (4) Dinesh Chandra S/o Jagnnath Rawal shall be released on bail (in FIR No.99/2006 P.S. Kalinjara District Banswara) provided each of them executes a personal bond in the sum of Rs.20,000/- and furnishes two sound and solvent sureties in the sum of Rs.10,000/- (out of which, one surety must be furnished by one female member of family, either mother, wife or sister) each to the satisfaction of the learned trial court for their appearance before that Court on each and every date of hearing and whenever called upon to do so, till the completion of trial.

The accused-applicants, who have been granted bail by this Court, will further give an undertaking before the trial court that they will not repeat any such offence or will not give any threat to complainant or will not disturb the peace of the society.

This order will be further subject to the condition that in case any complaint is received from the complainant during the pendency of the present

case then it will be open to the prosecution to move application for cancellation of the bail.

(GOPAL KRISHAN VYAS), J.

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